REPRESENTATION IN STATE LEGISLATURES.

III.

THE SOUTHERN STATES.

Other reasons than those of mere convenience of geographical grouping may be advanced for devoting a special discussion to representation in the legislatures of the Southern states. To the student of political institutions the "Solid South" has a distinct significance quite apart from the ordinary meaning of the term. Four of these states were among the original thirteen, while the admission of all the others falls well within the first half of this century.[1] Until comparatively recently they have all been for the most part slow-growing agricultural communities. Such conditions make for uniformity in the spirit and in the forms of government. But other and less spontaneous influences have been at work in the same direction. All of these commonwealths have passed through the disorganizing ordeal of the war between the states, and at its close they resumed their old place in the union, only after deep if not permanent impressions had been made upon their governmental institutions by a reconstruction process forced upon them from without.[2] Moreover, all of these states have had to grapple more anxiously than their sister commonwealths with a perplexing race problem—a problem which was not only involved in all the events that led up to reconstruction, but which has been and still is an effective cause of gradual modification in government—modification not the less radical because it is not in all instances reflected in formal change of constitution or of statute.

[1] The functions of state government were not new to the people of West Virginia before her separation from the parent state in 1863.

[2] The constitution of West Virginia reflects the spirit of the reconstruction period.

I.

Who are represented? or rather, who may vote in the choice of legislators?

Only four of these states fail to stipulate expressly that voters must be citizens not only of the state but of the United States as well.[1] The prevalent qualification of residence within the state is one year; it is not without significance that the only states requiring a two-year term of preliminary residence should be the very ones which have revised their constitutions within the past decade,[2] and it is these states which are the most exacting in their requirement as to residence within the county or voting precinct, insisting upon a full year, while elsewhere a much shorter period is accepted.[3] Yet these states make discriminations among new-comers. Thus, Mississippi gives the right to vote after only six months' residence in the election district to ministers in charge of organized churches who are otherwise qualified; South Carolina is still more liberal in extending the concession not only to ministers, but also to teachers in the public schools, after a residence of but six months in the state.

Just half of these states insist upon the payment of taxes as a preliminary to voting. In four instances this is confined to the poll-tax,[4] while in Georgia and in Mississippi all the taxes required during a stated period must have been paid.[5]

The disqualification of persons of unsound mind, of criminals and of paupers is practically universal. Crimes against the ballot are visited with especial condemnation in Virginia and in Florida, the latter state even disfranchising

[1] West Virginia, Alabama, Arkansas and Texas.

[2] Mississippi, South Carolina and Louisiana.

[3] Sixty days in West Virginia. Three months in Virginia, North Carolina and Alabama. Six months in Georgia, Florida, Arkansas, Texas and Tennessee.

[4] South Carolina, Tennessee, Florida and Louisiana.

[5] In Georgia, all taxes up to the year of the election; in Mississippi all for the two years next preceding the election.

any person "who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election." Virginia includes treason in her list of disqualifications, and Georgia specifies the unusual disqualification of treason against the state. Both Virginia and Florida deprive of the right to vote any person "who, while a citizen of this state, has since the adoption of this constitution fought a duel with a deadly weapon, either within or beyond the boundaries of this state, or knowingly conveyed a challenge, or aided or assisted in any manner in the fighting a duel." [1]

The suffrage laws of the Southern states are in transition stage, and hence present striking contrasts even in adjoining states. Yet it is only during the last decade that these contrasts and the tendency have become marked. The reconstruction acts and the last two amendments to the constitution seemed to rivet fast upon these states suffrage laws which were by no means of their own choosing. For our present purpose it is enough to recall that the Reconstruction Act of March 2, 1867, required as a condition precedent to the withdrawal of the military governments and the admission of representatives into congress, not only the ratification of the Fourteenth Amendment, but also the framing of a state constitution by a convention chosen by an electorate consisting of all the male citizens of the state of proper age, "of whatever race, color or previous condition," and the ordaining in that constitution of the same qualifications for the electoral franchise.[2] As these prerequisites were deemed by most constitutional lawyers to be of doubtful validity as the basis for the maintenance by congress of freedman suffrage in the restored states, there was sent to the state legislatures in 1869 the

[1] Virginian Constitution. The Florida statute is similar.

[2] Says Professor Dunning: "In short, the full enfranchisement of the blacks and the disfranchisement of the leading whites were required as conditions precedent to the enjoyment of the rights of a state." Essays on the Civil War and Reconstruction, p. 124.

Fifteenth Amendment, and its ratification was exacted from the four states whose representatives had not already been admitted to congress.[1] But the subjection of what had been the ruling class to a new "political people," brought into being as such by law and not by experience and self-discipline in government, could not, in the nature of things, be permanent. Even in the states where the whites were heavily out-numbered by the blacks only eight years had passed before the whites had found means to regain their ascendancy. But the vanquishing of ignorance and inexperience by force, intimidation and fraud was not an inspiring spectacle; hence other and less obnoxious devices have been sought out for accomplishing the same object. The "fatal precedent," which some of the New England states had set in requiring an educational qualification was found to be full of suggestiveness for the solution of the southern problem, and during the past decade these states have developed remarkable ingenuity in the art of framing suffrage laws. Interest centres in several features of the subject which cannot be discussed separately, viz., registration, and certain qualifications of property, education or birth. As regards registration the constitutions present remarkable contrasts,—contrasts, however, which are more apparent than real. Thus, the constitutions of West Virginia and of Arkansas[2] absolutely prohibit the depriving of any citizen of the right to vote at any election "because his name is not or has not been registered or listed as a qualified voter." But in each state the assessors are charged with the duty of making out an elaborate list of

[1] It is to be remembered that four of the important Northern states, Ohio, Michigan, Minnesota, and even "Bleeding Kansas," had refused to extend the suffrage to the blacks, and that the Republican platform in the campaign, which resulted in Grant's election had affirmed: "The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude and of justice, and must be maintained, while the question of suffrage in all loyal states properly belongs to the people of those states." Stanwood, Presidential Elections, p. 258.

[2] West Virginia Constitution. The similar provisions of the Arkansas Constitution are to be found in Art. III, Sec 2. See also Act of April 10, 1893.

poll-tax payers, with specifications of age, residence, occupation, etc. Both the assessor and the voter are subject to heavy penalties if this listing is not accuractely done. Copies of these lists are furnished to the officers at every polling place, and any man challenged upon the basis of these lists is obliged to make affidavit that he is a legal voter, stating his age, residence, occupation, etc. In Georgia, Texas and Tennessee registration is allowed only in counties and towns of exceptionally large population. It is permissive under the constitutions of Alabama and of Virginia, where both the form and the enforcement of the law are said to savor of race partisanship. In contrast with these prohibitions or permissions there is to be set the express requirement of registration as a prerequisite to voting in the constitutions of five other states. It is significant that in four of these the express requirement is a provision of the constitutions which have been revised during the last fifteen years. It is, therefore, a feature of the new suffrage law; it reveals one line of tendency.

Having refused to accept the suggestion of President Johnson that the ballot be given to negroes who possessed a little property and who could read and write, Mississippi at last found herself obliged to accede to a constitution which not only admitted to the suffrage all male citizens of the United States possessing certain age and residence qualifications, but which also prohibited the imposing of any property or educational qualification before 1885. The most significant feature of the constitution of 1890 was the peculiar application of an educational test, in the requirement that on and after January 1, 1892, every elector, in addition to the other qualifications, should be "able to read any section of the constitution of this state, or . . . to understand the same when read to him, or give a reasonable interpretation thereof."[1] The payment of a poll tax is coupled with this provision. It is impossible to gauge with accuracy the

[1] Constitution of Mississippi, Art. XII, Sec. 204.

effects of the adoption of this qualification. Long before 1890, for various reasons, the negro had lost much of his zest for voting. Some inferences, however, may be drawn from the fact that while in 1890 the colored males of voting age were 150,436 as compared with 121,504 whites, the registered colored vote in 1896 was 16,234 as compared with a white vote of 109,337. In other words, while negro males of voting age exceed the whites by about 30,000, the total negro vote registered under the new dispensation is reduced to a little more than one-half of this excess.

South Carolina soon proved an apt pupil. The constitutionality of the Mississippi registration qualifications having been upheld by the courts,[1] they became the precedent in the constitutional convention of 1895, and substantially the same provisions were ordained by the convention for immediate effect,[2] but only as a temporary stop-gap.[3] At the end of two years these qualifications were to be replaced for all new applicants for registration by those which are now in force; the would-be voter must be able to read *and write* any section of the constitution submitted to him by the registration officer, *or* show that he owns and has paid taxes collectible during the previous year on property within the state assessed at $300 or more. At the present time, therefore, the candidate for registration must face the alternative of an educational or property test. South Carolina does not

[1] Sproule *v.* Fredericks, 69 Miss., 898; Dixon *v.* State, 74 Miss., 271. The opinion which had prevailed in the state courts has now received the sanction of the Supreme Court of the United State. In the case of Williams *v.* Mississippi it was held that; "the provisions . . . in section 244 (of the constitution of Mississippi) making ability to read any section of the constitution, or to understand it when read, as a necessary qualification to a legal voter . . . do not amount to a denial of the equal protection of the law, secured by the Fourteenth Amendment to the Constitution; and it has not been shown that their actual administration was evil, but only that evil was possible under them." U. S. Reports, 170: 213. Decision rendered April 25, 1898.

[2] In Mississippi fourteen months had been allowed before the new qualifications should go into effect.

[3] Up to January 1, 1898, all males of voting age, applying for registration, "who can read any section of this constitution, submitted to them by the registration officer, or understand and explain it when read to them by the registration officer, shall be entitled to register, and become (permanent) electors."

make her election statistics available for the purpose of testing the effects of this law.

Three years later Louisiana approached the suffrage problem with confidence born of her own experience: a recent registration act had already worked a great transformation in the electorate.[1] But in the convention yet more radical action was taken. Louisiana's educational test takes the rigorous form of the writing out of an application for registration, making use of an elaborate formula containing about seventy-five words. For the man who cannot read and write, as in South Carolina, there is offered as a second option the producing proof that he owns and pays taxes upon property within the state, assessed at not less than $300. But it is the third option which constitutes Louisiana's original contribution to suffrage legislation. Three months and a half were allowed for any man to secure his registration as a voter for life, who, while possessing neither the property nor the educational qualifications, could prove that "on January 1, 1867, or any date prior thereto, he was entitled to vote under the constitution or statutes of any state of the United States, wherein he then resided, *or that he is the son or grandson* of some such person, not less than twenty-one years of age at the date of the adoption of this constitution." In this special registration 29,198 men were made permanent voters of Louisiana by taking advantage of this "son-or-grandson" clause. These constitute a peculiarly American form of "hereditary aristocracy."

The first election under the new constitution, held April

[1] The results of this act may be inferred from the following figures:

	Jan. 1, 1897.	*Jan. 1, 1898.*
Number of white voters	164,088	74,133
Number of colored voters	130,344	62,402
Number of white voters who write	133,603	68,442
Number of white voters who make their mark	28,371	6,540
Number of colored voters who write	33,803	7,541
Number of colored voters who make their mark	94,498	5,361

The first column presents the registration under Act 123 of 1880. The second column presents the registration under Act 89 of 1896.—*Biennial Report of Secretary of State, La., 1896-1898.*

17, 1900, affords an opportunity for observing some of the workings of the new law. In the first place, registration is said to have fallen fifty per cent below that of the previous year. Only about 7,000 negroes registered. The lightness of the vote cast, —only about two-thirds of those registered,—may be accounted for partly by the furious storm which was raging on election day; but it is probable that a large part of the explanation is to be found in the fact that there was so little opposition to the dominant party among the whites that comparatively few of them bothered about voting.[1] In the new legislature, which was then elected, every member of each chamber is a Democrat, although in the previous one the minority parties had elected 16.6 per cent of the senate, and 27.5 per cent of the house.

In the Louisiana convention it is reported that both of the United States senators opposed the clause which provides for the registration of the illiterate whites, because of its questionable constitutionality, and declared that they could never defend it upon the floor of the senate.[2] Since its adoption, however, it has been hailed in other states as the bow of promise. In North Carolina there is now pending a proposed amendment to the constitution, requiring that the candidate for registration shall be able to read and write any section of the constitution in the English language, *unless* he registers as one who was a legal voter on or before January 1, 1867, or as "a lineal descendant of any such person." With the exception of the payment of a poll tax for the previous year, no property qualification is required—it is regarded as needless, since Louisiana has put forward her ingenious device for excluding the blacks. "Lineal descendants" are allowed until December 1, 1908 for their registration. This amendment was passed with tremendous

[1] In reporting this election, the New York *Nation* raises the question whether what the Vicksburg *Herald* has characterized as "a surrender to party absolutism," which results in an "oligarchy" in Mississippi, is not the goal toward which Louisiana politics are also tending.—*Nation*, April 26, 1900.

[2] New York *Sun*, May 22, 1898.

enthusiasm by both houses of the legislature,[1] and now awaits the ratification of the voters at the poll, in August 1901.

In Alabama the present constitution ordains: "No educational or property qualification for suffrage or for office, nor any restraint upon the same on account of race, color or previous condition of servitude shall be made by law." Yet the calling of a convention, the principal object of which is to be the disfranchisement of the negro, was one of the chief issues of the recent campaign, and the result is considered distinctly favorable to the speedy carrying out of that project.[2] In Virginia, too, (although the constitution distinctly prohibits the making of any amendment or revision "which shall deny or in any way impair the right of suffrage . . . except for causes which apply to all persons and classes without distinction") the call for a convention to disfranchise the negro has just been carried by a considerable majority.[3] It is significant that the industrial

[1] "The passage of the amendment was greeted with great applause in both houses, the galleries and lobbies being thronged with spectators. Such a scene has not been witnessed in the General Assembly of this state in many years."—Raleigh dispatch to New York *Sun*, February 19, 1899. The Democratic candidate for the governorship recently issued an edifying defense of the proposed amendment, which his party has taken up as a party measure. He says: "The amendment to the constitution is presented in solution of the race problem in North Carolina. It is carefully and thoughtfully drawn. It stays inside of the Fifteenth Amendment, and nevertheless accomplishes its purposes. It adopts the suggestion of Senator Cullom, and demands the existence of sufficient intelligence, 'either by inheritance or by education,' as a necessary qualification for voting. It requires of the negro the qualification by education because he has it not by inheritance. The amendment makes a distinction between a white man and a negro, but it does so on the ground that the white man has a knowledge by inheritance which the negro has not."—Quoted in the *Outlook*, N. Y., June 2, 1900.

[2] Of the results of the election the Birmingham, Alabama, *News* (Dem.) writes as follows: "And now comes up the question of the fruits of victory. Morgan stood for a constitutional convention and the elimination of the ignorant negro vote. Alabama cannot afford to let the opportunity to purify its ballot box go by. The constitutional convention must come, and it should come quickly. White men must not be compelled, in this progressive state, to steal ballots from negroes, to place themselves upon an equality with the negro by pretending to give him the right of suffrage, and then sneaking it from him."—Quoted in *Public Opinion*, April 26, 1900.

[3] Election, May 24, 1900. Estimated majority in favor of the convention, about 15,000.—Boston *Herald*, May 26, 1900.

districts, where the whites largely predominate, voted overwhelmingly against the calling of the convention; it was in the black belt, where the blacks outnumbered the whites three to one, that the decisive majorities were cast in favor of disfranchising the greater part of the present electorate, a fact which furnishes a peculiar commentary upon the vitality and independence of the suffrage now possessed by the blacks. In Georgia the call of such a convention has recently been defeated, but in all the other states where the black vote is feared, since Louisiana set the example, the agitation in favor of disfranchisement has become increasingly strong and persistent.

II.

What is the basis of representation?

Old as are these states, each has passed through an ordeal of reconstruction which has destroyed many of the earlier political landmarks. It results that in such matters as the number of senators and of representatives there is discerned evidence of the artificial, of theorizing as to the normal size of legislative bodies and the normal ratio between them. Indeed, the South Carolina senate is the only one of the twenty-four chambers in which representation is apportioned strictly according to the boundaries of historic communities —one senator to each county. In most cases the constitutions prescribe minima and maxima between which the representation in each house may vary. In the course of a few years the maxima are almost invariably reached.[1] The Mississippi convention took unprecedented action in 1890 in apportioning the maximum numbers for each house, and providing that the legislature might reduce these numbers to the stipulated minima, on condition that the relative

[1] The exceptions are the Arkansas senate and the Texas house, the latter having but 128 as compared with the authorized 150. In Louisiana each house of the first legislature elected (April 17, 1900), under the new constitution, fall but two below the maximum.

numbers assigned by the constitution to three county groups should be preserved. Round numbers have had some influence; three of the lower houses have each 100 members, with corresponding senates of 32, 33 and 40. The senates vary from 31 to 45; the range in the lower house is from 68 in Florida to 175 in Georgia, a number which is exceeded in only five states of the union, all but one of which are in New England.[1]

In eight of the states of this group senators are chosen from single-member districts,[2] although occasional provisions show some regard for county lines.[3] Georgia allows the legislature to change the senatorial districts, subject to the condition that "neither the number of districts nor the number of senators from each district shall be increased." West Virginia is divided into districts, each of which elects two senators, but it is stipulated that when a district is composed of more than one county both senators shall not be chosen from the same county. The constitution authorizes the legislature to submit to the people at any general election a "plan or scheme of proportional representation in the senate of this state," but as yet no such change has been made. South Carolina accords one senator to each county, regardless of differences in population. Louisiana apportions her senators among districts according to population,[4] yet both here and in Mississippi[5] the one-member district prevails. In the latter state, elaborate provision is made to secure in the larger districts either the election of a

[1] New Hampshire, Vermont, Massachusetts, Connecticut and Pennsylvania. Illinois comes next with a house of 131 members.

[2] Virginia, North Carolina, Georgia, Florida, Alabama, Arkansas, Tennessee and Texas. Virginia and Arkansas each have one district that elects two senators.

[3] North Carolina forbids the division of a county in forming a senatorial district, unless the county be entitled to two senators. Alabama and Tennessee both prohibit the division of a county in forming a district, and also the combination of counties in a single district, unless they are of contiguous territory.

[4] Thirty districts elect thirty-nine senators, nine sending two each, and twenty-one sending one each; among the latter are included ten New Orleans districts.

[5] Forty-five senators are chosen in thirty-eight districts, thirty-three of them electing one each.

"floatorial" senator, or else the distribution of senatorial representation according to residence.[1]

In apportioning members in the lower house three of the states make districts the basis of representation, but two of these are carefully regardful of county lines. The other nine states, in contrast with most of the New England and northern states, take the county as the basis for representation in the lower house. The prevailing practice is to guarantee one member to each county, giving additional members to the counties having the largest surpluses, a ratio of representation having been determined by dividing the population of the state by the number of members to be elected. The variations from this simple type are too slight to require discussion.[2]

III.

How are the legislatures elected?

The fact that within a single half decade constitution-making under substantially the same abnormal conditions went on in all these twelve states may account for many points of resemblance which thirty years of subsequent political life have not effaced, but rather have emphasized. As regards the term of office, for example, seven of these states have adopted two years for representatives and four for senators, the senates being renewed by halves every two

[1] *E. g.* "The counties of Washington and Sunflower, the Twenty-ninth district. The county of Washington shall elect one senator, and the counties of Washington and Sunflower a senator between them." "The counties of Chickasaw, Calhoun and Pontotoc, the Thirty-first district, shall elect two senators. Both senators shall at no time be chosen from the same county."

[2] Virginia's 100 delegates are elected from eighty-two districts. Sixty-nine elect one each; eleven elect two; one elects four, and one five.

In West Virginia every county containing not less than three-fifths of a ratio is attached to some contiguous county. Forty-one counties serve as districts, twelve elect two each; one three, and two four. There are eight delegate districts; seven combine two counties, and one three: these districts elect one or two members each.

In Tennessee twenty districts, comprising from two to six counties apiece, elect one representative each; fifty-four counties constitute single-member districts; four elect two; one, three, and two seven each.

years.[1] In three states the term of the members of both houses is two years,[2] while Mississippi and Louisiana, whose constitutions are among the most recent,[3] elect both senators and representatives for a four year term. Wherever both houses have the same term their renewal is total at each election.

South Carolina and Georgia are the only Southern states which cling to annual sessions of the legislature. In all the others the sessions are biennial.[4] Although more than a third of the states of the Union put no limit upon the legislative session, such freedom is not prevalent in these Southern states. Mississippi alone leaves her regular session unlimited, but even here the stated "special" session held every fourth year, is restricted to thirty days.[5] All the other states fix a limit ranging from forty to ninety days, sixty being the most common. In doing this they have introduced several interesting innovations. Thus, three allow the session to be extended beyond the stated time, but only upon the vote of a special majority of the members elected to each house.[6] Three states speed their legislators' home-going by shutting off all pay after a certain number of working days,[7] while Texas merely cuts down their wages 60 per cent at the end of sixty days. Four states fix the session's limit irrespective of pay.[8] Even to special sessions rigid bounds are set,[9] and their work is usually

[1] Virginia, West Virginia, South Carolina, Florida, Alabama, Arkansas, Texas.

[2] North Carolina, Georgia, Tennessee.

[3] Mississippi, 1890; Louisiana, 1898.

[4] Mississippi's regular session comes every *four* years, but a special session is held in the middle of each term, so that the sessions are actually biennial.

[5] Unless the governor in the public interest shall extend it for a number of days specified in his proclamation.

[6] Virginia, ninety days; may be exceeded on vote of three-fifths. West Virginia, forty-five days; may be exceeded on vote of two-thirds. Arkansas, sixty days; may be exceeded on vote of two-thirds.

[7] North Carolina, sixty days; twenty for a special session. Tennessee, seventy-five days; twenty for a special session. South Carolina, forty.

[8] Georgia, fifty: Alabama, fifty; Louisiana, sixty; Florida, sixty, and twenty for a special session.

[9] Twenty days in North Carolina, Florida, and Texas; Mississippi, thirty; Virginia, thirty, extension of regular session.

confined to the consideration of appropriation and revenue bills and the specific matters laid before the legislature in the governor's proclamation convening it.

In methods of electing senators there is but the slightest opportunity for variety, since in ten of the states but one senator is chosen in a district at any election;[1] this includes West Virginia, where two senators are chosen from each county, but only one at each election. In the states which admit a larger representation to a single district the single-member districts predominate, and no district chooses more than three;[2] in every case, too, these three members belong to the same party, so that plural representation does not secure proportional representation.

In but four of the states are representatives chosen by districts.[3] The southern counties, though large in area, are small in population, and hence in the other states they serve as the unit from which the representatives are chosen. Members are allotted to them in proportion to population, but in eight of the states each county is accorded one representative. Florida requires that each county shall have one representative elected from the county at large while no county may elect more than three.[4] Most of the representatives throughout the south, however, represent but a single county.[5]

[1] This includes Virginia and Arkansas, each with a single two-member district.

[2] In Mississippi, thirty-three districts elect one senator each; three two, and two three; in Louisiana twenty-one districts elect one each, and nine two.

[3] Virginia and West Virginia; in the latter, however, there are but eight delegate districts, made up of small counties, the other forty-one counties each electing its own representatives, from one to four in number. In Tennessee a county which contains two-thirds of the representative ratio, obtained by dividing the population of the state by the number of representatives to be chosen, is guaranteed its own member.

Texas obtains its ratio in the same manner, and guarantees one representative to each county possessing a complete ratio. Like Indiana, Texas also provides for the joining of contiguous counties having fractional surpluses in a single district, electing a representative at large.

[4] In Florida one district only elects three; twenty-one elect two each, and twenty-three elect one each.

[5] The few other variations from the one-member system are discussed under the topic, the "elasticity of representation," at the end of this paper.

In the matter of compensation for legislative service there is more of uniformity here than elsewhere. Only two of the twelve states pay a stated salary, and in each of these the sum is gauged on the day-wage basis.[1] Seven pay at the rate of four dollars a day; Florida and Arkansas pay six, while the others have fixed upon five. Texas alone diminishes the wage if the legislators drag out their session unduly. All of the states pay in addition a mileage, reckoned in eight of them at ten cents. Texas pays at the rate of five dollars for twenty-five miles, while South Carolina, Tennessee and Louisiana, in this respect the most frugal states in the Union, pay but four and five cents respectively. South Carolina makes falsification in regard to mileage an offense, punishable by fine or imprisonment or both, and by damages to the defrauded county up to ten times the amount of the excess. West Virginia rigidly prohibits the payment of any other allowance or emolument for any purpose whatever. Alabama and Mississippi insist that stationery and other needful supplies shall be furnished under contract, which shall be given to the lowest responsible bidder. South Carolina and Tennessee make a formal allowance of five dollars to each member in lieu of all stationery and postage, the latter state specifically prescribing in the constitution that no stationery or supplies whatever shall be furnished to the members *gratis*. Louisiana forbids any member directly or indirectly "to ask, demand, receive, or consent to receive, for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege, or discrimination in passenger, telegraph or telephone rates;" breaking this law renders the member liable to divers penalties in addition to the loss of his seat.[2]

[1] In Virgina, $360, *i. e.*, "$28 per week until their respective salaries are exhausted." Mississppi pays a salary at the regular session, but day wages at the regularly recurring "special" session.

[2] Compensation of legislators:—

Virginia, for the session	$360 00	Mileage, 10c.
Mississippi "	400 00	" 10c.
West Virginia, per diem	4 00	" 10c.

IV.

Who are the legislators?

In their lists of qualifications and disqualifications the constitutions furnish some hints for the answering of this question. Only three of the states allow aliens to become their lawmakers; Louisiana and Arkansas, although permitting men to vote after merely declaring their intention to become citizens, insist upon their having completed their naturalization before they are eligible to a seat in the legislature. As to residence, three of the states content themselves with the same qualifications for members as for their electors. All the others require a special residence within the state varying from two to five years,[1] and a residence within the district or county of from one to two years. It is noteworthy that the prevalent term of residences is considerably longer here than in other sections, and that the local residence especially is made longest in the most recent constitutions.[2] Georgia and Texas have a two-year qualification for members of the lower house; in all the others the residence qualification is the same for senators and for representatives. No state requires any special age qualification for members of the lower house, but all except Virginia and Florida insist upon an added weight of years in their senators; in seven states twenty-five is stipulated; Texas requires twenty-six, Alabama twenty-seven and Tennessee thirty.

North Carolina,	per diem	. . . . .	4 00	Mileage,	10c.
South Carolina,	"	. . . . .	4 00	"	5c.
Georgia,	"	. . . . .	4 00	"	10c.
Florida,	"	. . . . .	6 00	"	10c.
Alabama,	"	. . . . .	4 00	"	10c.
Mississippi.	"	At the special session	5 00	"	10c.
Louisiana,	"	. . . . .	5 00	"	5c.
Arkansas,	"	. . . . .	6 00	"	10c.
Texas,	"	. . . . .	5 00	"	20c.
Tennessee,	"	. . . . .	4 00	"	4c.

[1] West Virginia, 5; North Carolina, 2; Georgia, 4; Alabama, 3; Mississippi, 4; Louisiana, 5; Arkansas, 2; Texas, 5, and Tennessee, 5.

[2] Mississippi and Louisiana.

As to disqualifications, there are the ordinary exclusions from eligibility of persons holding other offices of honor or profit under the state or national government; occasionally this is qualified by excepting such offices as may be filled by election by the people. Persons convicted of infamous crime are everywhere excluded; bribery, corruption at the polls and the embezzlement of public funds are often given special prominence as grounds for exclusion. Eight of the states expressly disqualify a legislator who shall remove from his district, city or town during his term of office, Louisiana even adding, "any declaration of intention to retain domicile notwithstanding."[1] On the ground that "ministers of the gospel are, by their profession, dedicated to God and the care of souls and ought not to be diverted from the great duties of their functions," Tennessee disqualifies all ministers of the gospel and priests of any denomination.[2] Three states demand some degree of orthodoxy in their legislators.[3] Six explicitly exclude all duelists and those who in any way have abetted dueling. In the South Carolina oath of office the legislator is required to swear not only that he has not in any way been connected with a duel since 1881, but also that he will not participate in nor abet any duel during his term of office.

Many attempts are made to exclude corrupt influences. West Virginia disqualifies any person who is a salaried officer of any railway company, or who is a sheriff, or constable, or clerk of a county court, as well as all persons directly or indirectly interested in any government contract. Louisiana, also, adopts this last disqualification. Mississippi makes the forfeiture of his seat the penalty for a mem-

[1] Mississippi forbids his removing from the county or from the "floatorial" district from which he was elected.

[2] Tennessee devotes a separate article in her constitution to "Disqualifications" (Art. IX). The three sections make an incongruous list; they exclude: (1) Ministers of the gospel. (2) All persons who deny the being of God, or a future state of rewards and punishments. (3) Duelists and their abettors.

[3] North Carolina excludes "all who deny the being of Almighty God." Mississippi excludes all "who deny the existence of a Supreme Being."

ber's being counsel in any measure pending before either house. Tennessee disqualifies a person, guilty of bribery, from holding office for six years, but Alabama makes a member, expelled for corruption, forever ineligible to either house, and explicitly includes under bribery the practices which ordinarily go by the name of "log-rolling." Mississippi inserts in her legislators' oath of office the following unique pledges: "I solemnly swear . . . that I will, as soon as practicable hereafter, read (or have read to me) the constitution of this state, and will endeavor to note and, as a legislator, to execute all the requirements therein imposed on the legislature; and I will not vote for any measure or person because of a promise of any other member of this legislature to vote for any measure or person, or as a means of influencing him or them so to do. So help me God." [1] It would be interesting to know what proportion of the legislators in Mississippi or in any other state have ever read through its constitution, or have strictly adhered to such a cast-iron pledge against log-rolling.

But the constitution's list of qualifications and disqualifications is far from telling us of what manner of men the legislatures are as a matter of fact composed. For this,—the more difficult, as it is the more interesting and the more important question—the data are very inadequate. In the first place, not one of the Southern states publishes an elaborate manual like those of the North Central states, indeed, only three[2] make official publication of any data in regard to their legislators except their names, addresses, and sometimes a summary of the election returns; and in but two[3] others are there available privately printed legislative directories, and these, instead of being pretentious compilations of biographical sketches, are mere lists of names, with the addition of the members' party affiliations and, perhaps, their occupa-

[1] Constitution of 1890, Sec. 40.
[2] Arkansas, Mississippi and Louisiana.
[3] South Carolina and Tennesee.

tions. Moreover, the state records in the south are far less detailed than in other sections, so that upon many points no data are obtainable.[1]

The age of Southern legislators seems to differ in no marked degree from that in other sections. The average in most of the chambers is between forty and forty-five. By a strange coincidence, both in Louisiana and in Arkansas, the senators average a trifle younger than the representatives.

In marked contrast with those of the North Central states the southern legislators are drawn from natives of the state which they serve. Except in the Arkansas senate the proportion of natives is in all cases a decided majority, though it falls lower here than in most of the North Atlantic states. Although large numbers have come from outside the state, the figures bear striking evidence to the fact that interstate migration has been along parallels of latitude. Of the 344 members of the legislatures in these three states, only thirteen were born north of Mason and Dixon's line, while but two out of the total number were foreign-born.

In the matter of occupation, the most notable point is the grip which the lawyers have upon legislative office. In all four of the senates they are in a decided majority, which in Arkansas rises to the unprecedented height of 75 per cent. In the lower house they keep their numbers well, as compared with lawyers in other sections, although outnumbered, except in Arkansas, by the group of farmers and planters. Members from mercantile life are rare, while of men devoted exclusively to manufacturing not one is to be found in the legislatures of South Carolina, Mississippi and Arkansas; in Louisiana there are but three in the senate and one in the house. In choosing her members Arkansas makes unusually

[1] In explaining the disappointing scantiness of data from some of these states, in justice to himself the writer must add that it is not due to his failure to make careful inquiry. From the majority of the secretaries he has received every courtesy, but four secretaries have entirely ignored repeated letters of inquiry. Apparently they decline to recognize that the secretary's office has any obligation to serve the public.

PERSONNEL OF STATE LEGISLATURES.

STATE.	CHAMBER.	Number of Members.	Average Age.	PERCENTAGES BASED ON TOTAL NUMBER REPORTED.											
				BIRTH-PLACE.				OCCUPATION.					POLITICS.		
				Own State.	Neighboring States.	Other United States.	Foreign.	Farmers and Planters.	Lawyers.	Mercantile.	Manufacturing.	Previous Legislative Experience.	Democrat.	Republican.	Minority Parties.
Louisiana	Senate	36	41.6	66.7	13.9	19.4	0.0	22.2	55.5	5.6	8.3	30.6	83.3	11.1	5.6
	House of Representatives	98	42.1	64.3	10.2	24.5	1.0	37.7	18.3	18.3	1.0	23.5	72.5	9.2	18.3
Arkansas	Senate	32	40.1	43.8	31.2	25.0	0.0	16.7	75.0	0.0	0.0	0.50	100.0	0.0	0.0
	House of Representatives	100	40.3	52.5	24.2	22.2	1.0	33.0	42.0	5.0	0.0	0.50	98.0	2.0	0.0
Mississippi[1]	Senate	45	44.9	75.6	15.5	8.8	0.0	24.4	53.3	2.2	0.0	.....	100.0	0.0	0.0
	House of Representatives	133	42.2	79.8	6.7	13.4	0.0	47.7	28.4	6.2	0.0	.....	98.4	1.6	0.0
South Carolina	Senate	40	.....	.....	.....	.....	.....	32.5	52.5	5.0	0.0	.....	.....	.....	.....
	House of Representatives	124	.....	.....	.....	.....	.....	44.4	37.9	6.4	0.0	.....	.....	.....	.....

[1] These statistics relate to the Legislature in office 1900–1903. The others concern Legislatures in office in 1899.

large demands upon the teaching profession, having two teachers in her senate, and nine in her house. Mississippi has five in her house.

Legislative experience is apparently less prized here than in the North Atlantic states, or else the Southern members are less expert in caring for their fences. The Tennessee legislature contains more seasoned legislators than any of the others from which data are available. Florida presents the surprising contrast of a senate more than two-thirds of whose members had seen previous service, and a house all of whose members were new men.[1] The estimate from Arkansas and Alabama, "about one-half in each house," is probably somewhat exaggerated as regards the lower chamber.

The present stage of the agitation in regard to the disfranchisement of the negroes in the South lends interest to the question: How great influence do the negroes still retain in the legislatures? The secretaries of four of the states utterly ignored the question, "How many negro members were there in the legislature of 1899?" while from a fifth state came the reply: "The public records do not state color." Of course the fact whether negroes were or were not members of that legislature could not fail to be known in the secretary's office, but there was no eagerness to furnish information on this point. In the seven other states, there was no negro member in her branch of any one of the legislatures with the exception of the Louisiana house, in which there were three; in the newly elected legislature, however, there are none. In Florida there has been no negro in the legislature since 1887.

[1] Tennessee senate, 60.6 per cent; house, 35.3 per cent. Florida senate, 68.7 per cent.

V.

To what extent does each state's system of representation make the political complexion of the legislature vary from that of the body of the voters?

The method of approaching this problem which has been tried in the other states is to compare the percentage of representation which each party secured in the senate and in the house with its percentage of the aggregate vote cast for

Party Votes Compared with Party Representation.

STATE.	PARTY.	Percentage of Vote for Governor	Party Representation in Senate.	Party Representation in House.
West Virginia .	Democrat[1]	46.8	24.3	52.1
	Republican	52.6	57.7	47.9
	Prohibition	0.5	0.0	0.0
Florida	Democrat	83.86	100.0	100.0
	Republican	16.14	0.0	0.0
Alabama	Democrat	67.1	84.8	88.0
	Populist	32.9	12.1	10.0
	Republican	0.0	3.0	2.0
Louisiana . . .	Democrat	56.3	83.3	72.5
	Republican	43.5[2]	11.1	9.2
	Minority	.1	5.6	18.3
Arkansas . . .	Democrat	68.4	100.0	98.0
	Republican	24.6	0.0	2.0
	Populist	7.5	0.0	0.0
	Prohibition	.0.6	0.0	0.0
Texas	Democrat	71.2	96.8	94.5
	Populist	28.1	3.2	4.7
	Prohibition	0.6	0.0	0.0
	Socialist Labor	0.1	0.0	0.0
Tennessee . . .	Democrat	57.9	84.8	77.8
	Republican	39.8	15.2	22.2
	Prohibition	1.3	0.0	0.0
	Socialist	0.9	0.0	0.0

[1] Election of 1896.
[2] Republican—Populist Fusion.

governor in the same election at which the legislature was chosen. At best, the conclusions to be drawn from such a comparison must be subject to many qualifications; in the Southern states this method is peculiarly disappointing, because of the inadequate data. The printed returns generally take no account of the candidates' party affiliations, and in several instances no further information has been obtainable. Nevertheless, the accompanying table presents some points of interest.

West Virginia alone of all the states makes a more direct comparison possible by publishing the aggregate vote cast by each party for candidates for the legislature.[1]

VI.

To what extent is the representative system elastic?

The census of the present year is likely to reveal a greatly accelerated rate of increase in the population of the Southern states. In the past, however, growth here has been more even and less rapid than elsewhere, a fact which is reflected in the conservative methods which have been adopted for bringing about the readjustments necessary to make representation respond to changed conditions in the distribution of population. As in the North Central states an evident conviction that there is a low limit upon the size of a legislative body, if it is to retain its efficiency, has prevented the adoption of the simple method of granting additional members to rapidly growing communities, while securing their old representation to the others. Limits have therefore been fixed, and in most instances the maxima have already been

[1] Of the average vote for senators, 50.8 per cent were cast for Republican candidates, and 48.7 for Democrats, while of the senators actually elected at that time, the Democrats secured 53.8 per cent, and the Republicans 46.2. The vote cast for delegates was extremely close, and is given in contradictory form on the same page in the "Manual." As summarized it stood: Republican, 94,982; Democrat, 94,186; Populist, 499. The secretary reports that the Republicans had thirty-four delegates, and the Democrats thirty-seven, but that the "house peremptorily threw out three members."

reached.[1] The Mississippi constitution makes no provision for the increase of membership, but does provide for a reduction of numbers, if it be made uniformly in the three county groups into which the state is divided. In representation, however, the movement rarely is turned backward; Massachusetts made heroic reductions in the limits which were set in 1857, but this action has few parallels.

The South is not the region of great cities, with a phenomenal rate of growth. In 1890 New Orleans was its only city of first rank, and in the twelve states there was no other approaching 100,000. The necessity, therefore, of putting sharp restrictions upon the influence of urban populations in the legislature has not yet been felt here in any degree. The Louisiana constitution evidences no intention of keeping New Orleans from the full representation to which her population entitles her; each ward, like each parish in the rest of the state, is guaranteed at least one member, but, aside from this, both senators and representatives seem to be allotted according to population.[2]

The problem being, then, to adjust representation to changes in distribution of population, the chief reliance naturally is placed upon periodic reapportionments of the pre-determined number of members among the several counties or districts. In no state is more frequent change than once in ten years demanded by the constitutions. With the exception of Florida, Mississippi and Tennessee, all apparently make use of the federal census returns, although South Carolina provides that the "enumeration of the United States census *may* be accepted by the General Asembly." The Alabama constitution orders that the apportionment shall be made by the legislature "from time to time," but

[1] The exceptions are the Texas house and the Louisiana senate and house. In the latter state, however, each house is but two below the maximum in the first legislature under the new constitution.

[2] Under the last apportionment the proportionality is remarkably close. The city contained 21.6 per cent of the population of the state; it elected 25.6 per cent of the senate, and 21.9 per cent of the house.

the implication from the context is that it is to take place after each federal census. Georgia and Mississippi make the reapportionment discretionary with the legislature; in all the other states it is obligatory.

Strict proportionality to population is checked in nearly half of the chambers by the insistence that each county shall be guaranteed at least one member;[1] in two by the condition that no county shall be divided in forming senatorial districts;[2] and in three by the fixing of a maximum county representation;[3] strict adherence to single-member districts also stands in the way, where any regard is paid to county lines. The only state to make use of the diminishing ratio is North Carolina, and here it has no extended development.[4] Georgia introduces an unique device in providing that at each apportionment there shall be assigned three representatives each to the six counties having the largest population; two each to the twenty-six next in rank, and one each to the one hundred and five remaining counties. Mississippi's election of "floaters" resembles Indiana's election of a member at large from several contiguous counties, and Texas has a similar device. For accomplishing this same object, minimizing the inequalities arising from the use of the single-member district, Tennessee's constitution introduces an interesting though but little practical requirement, that "in apportioning the senators

[1] North Carolina, house; South Carolina, senate and house; Florida, house; Alabama, house; Mississippi, house; Louisiana, house; Arkansas, house.

[2] Alabama, senate; North Carolina, senate, unless the county is entitled to two or more.

[3] South Carolina, one senator to each county; Texas, not more than one senator to any one county; Florida, not more than three representatives to one county. This limitation is of not a little force, for while one county has less than 900 inhabitants, and several fall far short of 2,000, three at least exceed 20,000; yet only one county is accorded three representatives, so that proportionality to population is not closely appproximated.

[4] The ratio is obtained by dividing the state's population minus the population of the counties containing less than 1-120th of it by 120 minus the number (one apiece) assigned to such counties. "To each county containing the said ratio, and not twice the said ratio, there shall be assigned one representative; to each county containing two but not three times the said ratio there shall be assigned two representatives, and so on progressively." Art. II, Sec. 6.

among the different counties, the fraction that may be lost by any county or counties in the apportionment of members of the house of representatives shall be made up to such county or counties in the senate as near as may be practicable.''[1]

Interest in representation in Southern legislatures at present does not centre in the selection of the communities or units which serve as the basis for the apportionment of legislators, nor in the election methods by which they are chosen, for in both of these regards these states present a remarkable uniformity of practice, which differs in no especially instructive particulars from what is to be found elsewhere. The questions of vital interest are: who are the representatives? and who take part in their choice? The significant fact is that the negroes are no longer admitted to the legislatures, and that they are being shut out from the polls. It is, of course, the states in which the black vote might prove a menace that have set the pace in this movement.[2] And yet it should be borne in mind that what, in many of these states, has brought public opinion among the whites to the support of these new suffrage laws is not the desire to put an end to negro dominance, for that was overthrown a quarter of a century ago. It is rather the struggle of the old ruling class, upon whom the burdens and the responsibilities of government rest, to safeguard the power which they regained long ago, and to make possible pure elections and the normal competition of respectable political parties.[3]

[1] Art. II, Sec. 6, constitution of Tennessee.

[2] According to the census of 1890, the percentage of colored males of voting age in each of the Southern states was as follows:

Alabama	40.2	North Carolina	31.9
Arkansas	26.9	South Carolina	56.4
Florida	39.6	Tennessee	22.9
Georgia	44.9	Texas	19.0
Louisiana	47.8	Virginia	34.5
Mississippi	55.5	West Virginia	5.1

[3] Ex-Secretary Hilary A. Herbert laid stress upon these points, in an address at the recent Montgomery conference in regard to the race problem. He insisted that no changes merely as to suffrage that could be made in state or federal constitution could of themselves meet the demand of the hour, but that what is needed most of all is better and more harmonious relations between the races.

That the weapons which are being used in this struggle are in open conflict with the letter if not with the spirit of both the fourteenth and fifteenth amendments to the federal constitution, is not to be denied. The question whether the constitutional penalties can and should be imposed and enforced, raises difficult problems in constitutional law, and in political ethics as well.[1] The more practical question, whether the new suffrage laws will secure the objects desired by their more public-spirited supporters, is also open to doubt; for, if race be the real ground of antagonism, the educational and property qualifications are not unlikely to prove a failing resource, since they incite the negroes to increased effort which may soon enable them to surmount the barrier. If these qualifications are combined with the undemocratic test of heredity, the danger is that the result will be, not the healthy rivalry of two strong and self-respecting parties, but the unshaken rule of an oligarchy, secured in power and in immunity from the penalties of self-centred rule by the artificial defences of law. But these are lines of speculation which stretch far beyond the scope of the present discussion. As regards representation in Southern legislatures the significant facts are that, although in a number of states the negroes are in a decided majority, they no longer secure place among the representatives, and by process of law, to which they seem to be giving tacit consent, as a race they are being deprived of the suffrage, a privilege which became theirs not by birth, nor by their own achievement, but which was thrust upon them by their would-be friends.

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[1] It is worth noting that while the platform of the Republican party in the present campaign declares that: "Devices of state governments, whether by statutory or constitutional enactment to avoid the purpose of this amendment (the Fifteenth) are revolutionary, and should be condemned," it does not venture to suggest that the penalty, explicitly provided in the constitution, can or should be imposed. The constitutionality and the expediency of the educational tests in the southern registration acts have been discussed by the writer in the *Political Science Quarterly* of September, 1898.